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# SOCIAL INSURANCE

## PART II

### WORKMEN'S COMPENSATION

#### Proposals for an Industrial Injury Insurance Scheme

*Presented by the Minister of Reconstruction to Parliament  
by Command of His Majesty  
September, 1944*

LONDON: HIS MAJESTY'S STATIONERY OFFICE

THREEPENCE NET

Cmd. 6551

Part I contains the Government's proposals for social insurance generally (except for industrial injury and for Family allowances and has been published separately (Cmd. 6550, price 6d.)

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# INDUSTRIAL INJURY INSURANCE

## FOREWORD

For nearly half a century the compensation of workmen for industrial injury has been a liability, imposed by law, upon their employer. Under the existing system, it has been open to the employer, and in some cases obligatory on him, to insure himself against this liability; while it has been for the workman to make his claim and to take steps to enforce it, if challenged, in the Courts of Law. Inevitably compensation has thus become a disputable issue between the two parties or their representatives. The result has naturally been a growth in legal complexity and the emergence of certain unsatisfactory features; for example, the practice of paying, in full discharge of liability for what may prove to be a permanent or long continued loss of earnings, a lump sum which the employer may offer for the sake of simplicity and finality, and the workman may accept for the same reason.

Henceforward, the Government, as part of their extension and recasting of the social insurance system, propose that provision for disablement or loss of life from industrial injury shall become a social service, administered as a separate scheme but under the Minister of Social Insurance. Benefits at special rates will be paid from a separate insurance fund, to which the employer, workman and the Exchequer will be contributors. This means a fundamental change in the method of providing against what may be one of the most grievous forms of personal misfortune: it involves also a great simplification of what has become a very complicated and elaborate system.

Under the present system, benefits are related to the estimated loss of earning capacity. Under the Government's plan benefits will be paid at flat rates, with supplements for family responsibilities. In the earlier weeks, while the workman is incapacitated for work, there will be injury allowances at uniform rates. Afterwards, if disablement is prolonged, there will be industrial pensions based, not on loss of earning capacity, but upon the extent to which the workman has suffered disablement by the injury, by comparison with a normal healthy person of the same age and sex. The pension will not be affected by any subsequent earnings of the workman, and (except in some cases of minor disability) will not be replaced by a lump sum payment. There will be pensions for widows, parents and certain other dependants of those who have died as the result of industrial injury.

This system is in many respects like that which is the basis of war pensions schemes. It thus recognises a certain similarity between the position of the soldier wounded in battle and that of the man injured in the course of his productive work for the community. Neither is liable to have his pension reduced on account of what he may earn after the injury; each is compensated not for loss of earning capacity but for whatever he has lost in health, strength and the power to enjoy life.

The new plan will avoid the main weaknesses and difficulties of the existing system. The Government believe that it will remove workmen's compensation from the atmosphere of controversy and conflict with which it has been surrounded and will establish it for the future on a happier and sounder foundation. It is their intention, if the scheme commends itself to Parliament, to introduce and pass the necessary legislation as soon as practicable with a view to bringing it into operation at the same time as the general scheme of social insurance.

## I.—THE PRESENT SYSTEM

1. The present system of Workmen's Compensation was first established in 1897 and was thus the pioneer system of social security in this country. Based on the liability of the individual employer under legislation which, where necessary, is interpreted and enforced by the Courts, it stands in almost every respect in sharp contrast to the later schemes of social insurance. It was revolutionary in the sense that it broke away from the principle that an employer could only be made liable to a workman for injury due to his default or the default of persons in responsible positions under him, but it was nevertheless largely influenced by the Common Law idea of personal responsibility, as well as by the prevailing views as to the limits of State interference.

2. Before the Act of 1897 there was no legal right to compensation for an industrial injury except in the limited number of cases where, at Common Law, or under enactments modifying the Common Law, the employer could be held liable on proof of negligence on his part to pay damages to the workman or his dependants. This liability was extended by the Employers' Liability Act of 1880, which excluded the defence of common employment in cases of personal injury due to defective work, plant or machinery or to negligence on the part of persons to whom the employer had delegated responsibility. This Act proved ineffective, and between 1880 and 1897 various unsuccessful attempts, of which the most notable was Mr. Asquith's Employers' Liability Bill of 1893, were made to enlarge still further the circumstances in which the employer could be held responsible on the basis of negligence. It was, however, impossible in this way to cover the great number of accidents for which no blame could reasonably be attached to the employer or persons in responsible positions under him, and it was eventually recognised that the proper line of progress would be by way of an industrial compensation scheme under which compensation would be provided at the employer's expense for all ordinary injuries sustained by workmen in the course of their employment. The Act of 1897 proceeded on these lines. It imposed a liability on the employer to pay compensation to a workman injured by accident arising out of and in the course of his employment, or to his dependants if the accident resulted in death, whether or not there had been negligence on the part of the employer or anyone employed by him. Nor was negligence on the part of the injured workman himself a bar to the recovery of compensation.

3. The Act placed no obligation on the employer to insure against this liability—it was left to his good sense to do so should the burden be likely to impose too severe a strain on his financial resources. In the debates which preceded the passing of the Act it was suggested that the liability should be placed on a trade insurance fund or funds instead of on the individual employer; but this suggestion was opposed on various grounds, the main criticism being that it would involve more State interference than this country would tolerate.

4. The Act did not deprive the workman of his rights at Common Law or under the Employers' Liability Act for injuries caused through negligence, but it included provisions against the recovery of damages in addition to workmen's compensation. It required the workman to choose between accepting the compensation provided by the Act and the remedy at common law or under the Employers' Liability Act, but it provided that if a workman failed in an action against his employer for damages he could obtain from the Court an award of compensation.

5. The Act was limited originally to certain dangerous employments, but in 1906 it was extended to cover all persons working under a contract of service or apprenticeship, with a few exceptions, of which the most important was the non-manual worker earning more than £250 (since raised to £420) a year.

The Act of 1906 also provided for death or disablement caused by scheduled industrial diseases.

6. The amount of compensation was fixed, not on the Common Law principle of indemnity for injury due to the fault of another, but on the principle of a division of loss between the employer and the workman; it was related, subject to maxima, to the average earnings of the workman and it took no account of his family responsibilities. The Act did not give compensation for an injury as such, or for the disability resulting therefrom, but only for loss of earning capacity; it did not make good the whole loss, but was intended to provide a substantial measure of relief to the injured workman or his dependants.

7. The Acts have been amended and enlarged from time to time and one or two important modifications have been made in their basic principles, notably by the introduction of compulsory insurance in the coal mining industry under the Workmen's Compensation (Coalmines) Act, 1934,\* and by the recent war-time Acts,† which, by increasing the weekly compensation by means of flat rate allowances related to family responsibilities, have made a substantial breach in the principle of compensation based on loss of wage-earning capacity. Otherwise the main features of the system introduced in 1897 have remained unaltered.

8. (i) The benefit under the Acts in cases of total incapacity was originally a weekly payment not exceeding 50 per cent. of the average weekly earnings of the workman in the employment in which he was engaged before the accident, subject to a maximum of £1 per week. The War Addition Acts of 1917 and 1919‡ gave a temporary increase of 75 per cent. in the weekly benefit for total incapacity, but these Acts were repealed by the Act of 1923.§ That Act raised the maximum from £1 to 30s. but the proportion of earnings was left at 50 per cent., save that for workmen earning less than 50s. a week the proportion was fixed on a scale varying from 50 per cent. to 75 per cent.

(ii) During the present war the weekly compensation has been increased by the addition of flat rate allowances under the Acts mentioned in paragraph 7 above. The effect of these allowances is to bring the maximum for total incapacity in the case of the single man up to 35s. a week during the first thirteen weeks, and 40s. thereafter, and in the case of the married man up to 40s. during the first thirteen weeks, and 50s. thereafter. A man with children also gets an allowance of 5s. a week in respect of each child under 15 years of age, or up to the 31st July next following the 16th birthday if still at school. The weekly payment, including supplementary allowances other than children's allowances, may not, except for some workers earning less than 50s. weekly, exceed two-thirds of the pre-accident earnings, and, if children's allowances are payable, may not exceed seven-eighths.

(iii) In cases of partial incapacity the compensation is a proportion of the difference between the pre-accident average weekly earnings and what the workman is earning or is able to earn in some suitable employment or business after the accident; and the supplementary allowances are payable in the proportion which the weekly payment for partial incapacity bears to the weekly payment to which the workman would be entitled if totally disabled.

9. Where the weekly payments have been continued for not less than six months, the employer has the right, on application to the County Court (in

\* 24 and 25 Geo. 5, C23.

† The Workmen's Compensation (Supplementary Allowances) Act 1940 (3 and 4 Geo. 6, C47) and the Workmen's Compensation (Temporary Increases) Act, 1943 (6 and 7 Geo. 6, C49).

‡ 7 & 8 Geo. 5, C42 and 9 & 10 Geo 5, C83.

§ The Workmen's Compensation Act 1923 (13 & 14 Geo. 5, C42).

Scotland, the Sheriff Court), to have his liability redeemed by payment of a lump sum; and he may at any time agree with the workman to redeem it by a lump sum payment, subject to certain safeguards afforded by registration of the agreement in the Court.

10. (i) In fatal cases, compensation takes the form of a lump sum the amount of which depends on (a) the workman's earnings, and (b) the members of his family who were dependent on him at the time of his death and the extent of their dependency. The maximum where only adult dependants are left is £400. Where the workman leaves children under the age of 15 in addition to an adult dependant, an additional sum is payable and the aggregate maximum is £700.

(ii) The compensation in fatal cases is not paid direct to the dependants but must be paid into the County Court (or in Scotland, the Sheriff Court) to be dealt with in such manner as the Court thinks best for their benefit.

(iii) Where no dependants are left, reasonable expenses of medical attendance and burial are payable up to a maximum of £15.

11. It was originally contemplated that disputes would generally be settled by informal arbitration by a Committee representative of the employer and his workmen, or by an arbitrator agreed on by the parties, or by the County Court Judge (in Scotland, the Sheriff), a form of procedure which was described by the Attorney-General at the time as "something in the nature of a domestic forum which should settle matters in a cheap and expeditious manner." Except in the Cumberland and Durham coalfields, where representative committees have been set up, this intention has not been realised. Disputes are generally settled, subject to appeal on questions of law to the Court of Appeal (in Scotland, the Court of Session) and the House of Lords, by arbitration in the County Court; and this arbitration has developed into a regular legal proceeding.

12. The employer has a right, when a workman first claims compensation, and subsequently within prescribed limits, to have him examined by a doctor appointed and paid by the employer. Disputes on the question whether a workman is fit for employment and, if so, to what extent his incapacity is due to the injury are settled either by a reference through the County Court to a Medical Referee appointed by the Home Office, whose certificate is conclusive, or by arbitration.

13. Throughout the period since the last war, the present system has been severely criticised on various grounds and the Government have set up, from time to time, departmental committees to report on the working of the Acts. The most important of these was the Holman Gregory Committee which reported in 1920 and recommended a number of far-reaching alterations, many of which have not, however, been adopted. In December, 1938, a Royal Commission was appointed to examine the law of workmen's compensation and the relation of the system to other statutory schemes for giving benefits or assistance to incapacitated or unemployed workmen. It was also directed to advise, in relation to workmen's compensation, whether any alteration is desirable in the present position in regard to the civil liability of the employer to pay compensation or damages in respect of injuries due to employment, independently of the Workmen's Compensation Acts. The proceedings of the Royal Commission were suspended in 1940 owing to the war. The Commission had by then taken a large amount of evidence, but had made no Report. When Sir William Beveridge was invited in 1941 to conduct a comprehensive inquiry into Social Insurance and Allied Services, workmen's compensation was expressly included within the scope of that inquiry.

## II.—PROPOSALS IN THE REPORT ON SOCIAL INSURANCE AND ALLIED SERVICES

14. Sir William Beveridge's Report \* recognises that the existing system of workmen's compensation has conferred great benefits in the past. It has enabled the workman in the great majority of cases to get his compensation without any serious difficulty and without unreasonable delay; and, as the Report points out, there are other substantial advantages which may be claimed for it. On the other hand, the Report draws attention to a number of serious disadvantages in the present system. It refers to the formal, contentious, and costly method for settlement of disputes; the difficulties of the workman who is not assisted by a trade union or approved society in prosecuting a claim; the possibility of improper pressure on him to reduce his claim or to take up work for which he is not fit; the want of complete security for payment of compensation; the difficulties of demarcation between industrial and non-industrial cases; the unsatisfactory provision made by lump sum settlements; the high costs of administration over parts of the field; the inappropriateness of the system in cases of industrial diseases which develop over a long period or are of a recurrent nature; and the absence of any provision for medical and post-medical rehabilitation of the injured workman.

15. The Report recommends that the existing system, which it considers "was based on a wrong principle and has been dominated by a wrong outlook," should be superseded, and that provision for industrial disability should be made as part of a unified scheme of social insurance of a contributory character—the benefits being paid out of a central fund which would be maintained by contributions payable by the employers and workmen and the State, and would be administered by a Ministry of Social Security.

16. Dealing with the possibility of complete unification with the social insurance scheme the Report says that, "if the matter were being considered in a clear field, it might well be argued that the general principle of a flat rate of compensation for interruption of earnings adopted for all other forms of interruption, should be applied also without reserve or qualification to the results of industrial accident and disease, leaving those who felt the need for greater security to provide by voluntary insurance an addition to the flat rate subsistence guaranteed by the State." As the Report observes, "if a workman loses a leg in an accident, his needs are the same whether the accident occurred in a factory or in the street; if he is killed, the needs of his widow and other dependants are the same, however the death occurred."

17. Nevertheless, the Report recognises that, apart from historical reasons, there are strong grounds for making a distinction in the matter of benefits between industrial and other forms of disability. These grounds are first, that "many industries vital to the community are also specially dangerous and it is essential that men should enter them and desirable therefore that they should be able to do so with the assurance of special provision against their risks . . . for themselves and their families"; secondly, that "a man disabled during the course of his employment has been disabled while working under orders"; thirdly, that "only if special provision is made for the results of industrial accident and disease irrespective of negligence, would it appear possible—as on grounds of equity and for the avoidance of controversy it is desirable—to limit the employer's liability at Common Law to the results of actions for which he is responsible morally and in fact, not simply by virtue of some principle of legal liability."

\* Cmd. 6404. The main passages in the Report dealing with workmen's compensation are paragraphs Nos. 77–105, 258–264, 280–291, 323, 331–336, 353, 360, 366, 393–395 and 401 and Appendix A (Memorandum by the Government Actuary) paras. 30 and 36–46 and Appendix E (Administrative Costs of Various Forms of Insurance).

18. The Report concludes that "on balance the reasons for distinguishing between industrial accident and disease and other causes of injury, at least where death occurs or disability is prolonged, outweigh the reasons on the other side in favour of complete uniformity." It accordingly proposes certain important departures in respect of benefits (see paragraph 21 below) from the principles of the general social insurance scheme.

19. (i) On the question how the necessary funds should be obtained the Report accepts the principle of the pooling of risks, which it recognises is in accord with the general trend of public opinion. It refers to the evidence given by the Mineworkers' Federation before the Royal Commission on Workmen's Compensation in favour of the contributions being paid only by employers, but at a fixed flat rate applicable equally to all industries, but points out "that the pooling of a risk between industries makes it difficult or impossible to maintain that the cost should be borne by employers only. In so far as industries depend upon one another, both employers and employees in each industry depend upon all other industries. There is no reason why the employer of a bank clerk or of a domestic servant, rather than the clerk or the domestic servant himself, should contribute to the cost of accidents in mines and in ships. In so far as there is community of interest between different industries making it fair that all industries should share equally in providing for a risk which affects them unequally, this community of interest applies to the employees as well as to the employers."

(ii) Other arguments advanced in the Report against confining the cost to the employer are:—

(a) "If employers are to bear the whole cost it is hard to justify taking the administration out of their hands; it is hard, therefore, to give to the responsible organisations of workmen the chance of taking a part, not in litigation, but in co-operative treatment of industrial disability";

(b) "it is undesirable that while most forms of interruption of earnings are met by benefit to which the insured persons, with others, have contributed and out of a fund in whose stability and economical administration they are directly interested there should be one form of interruption for which the funds are provided wholly by someone else. Such an arrangement will lead to constant pressure to push up the compensation for that particular misfortune, though it needs in reality no more than other forms of misfortune."

20. (i) While accepting broadly the principle of pooling industrial disability risks in the same way as health and unemployment risks, the Report claims that "there is a good social reason for taking a different line, in part at least, about the dangers of industrial accident and disease. Though a high risk of accidents is inevitable in mining, shipping and some other industries, it does not follow that all accidents are inevitable; the number and severity of accidents can be diminished or increased by greater or less care on the part of those who manage industry." The Report therefore proposes another important departure from the principles of the security scheme; namely, that the funds required for benefits in industrial cases should be derived—(a) in part only—as to about two-thirds—from contributions by employers, workers and the State, in the same proportions as for health insurance (five-twelfths each from employers and workmen and one-sixth from the State), and (b) in part—as to about one-third—from a special levy on employers engaged in industries scheduled as hazardous, that is, as having materially more than the normal risk of accident or disease in industry as a whole. The effect would be that the whole liability in the non-hazardous industries and part of the liability in the hazardous industries would be pooled and the balance, amounting to two-thirds of the excess cost in the hazardous industries, would be met by the special levy on those industries.

(ii) The Report proposes that there should be set up, at least in every industry scheduled as hazardous, a statutory association of employers and employees which, besides concerning itself with matters such as safety and measures for re-habilitation and re-employment within the industry, would be responsible for collecting from individual employers their quotas of the special levy required in the industry in accordance with a scheme to be prepared by the association and approved by the Minister. Although the associations would consist of representatives of both sides in the industry, it could be provided in matters that might be regarded as solely the concern of the employer "that the decision should rest with the employer's side alone; this power would make it possible for the employers in each scheduled industry as a body, subject to approval by the Ministry of Social Security, to adopt whatever system of levy, by individual merit rating or otherwise, they thought most conducive to the prevention of accidents or disease and the consequent reduction of the levy."

21. The scheme of benefits and the rates provisionally proposed in the Report are set out below. The Report assumes that there will be a State scheme of family allowances applicable to all children in a family except the first.

(a) During the first thirteen weeks of incapacity for work the ordinary security benefit would be payable, i.e. 24s. for a single adult man or woman without dependants or a married man with gainfully occupied wife, and 40s. for a married man whose wife is not gainfully occupied; there would be reduced rates for single persons under 21 years (20s. if aged 18-20 and 15s. if aged 16-17 years). A child's allowance would be payable for the first child and, in the case of the single workman, a dependant allowance of 16s. for one adult dependant living with him and not gainfully occupied.

Following existing law, benefit would not be payable for the first three days of disablement unless the incapacity lasts for four weeks or more.

(b) After the first thirteen weeks of incapacity for work, an industrial pension would be paid equivalent to two-thirds of full-time earnings, but not less than the security benefit as under (a), nor more than £3 weekly.

(c) For persons partially disabled the pension would be proportionate to the loss of earning power.

(d) Lump-sum payments for industrial disability would be restricted to cases in which the Security Office is satisfied on special grounds that such payment is in the workman's interest.

(e) In fatal cases a single payment described as an industrial grant, the amount of which would be prescribed by Regulations, would be paid in respect of the widow and of other dependent persons. This grant would be in addition to funeral grant, widow's and guardian benefits, but these benefits would be taken into account in fixing the amount.

(f) Entitlement to benefit would not be conditional upon contribution record, as under the general scheme of social insurance.

22. The Report further proposes—

(a) that claims should be dealt with by administrative rather than legal procedure, with a right of appeal to special local tribunals;

(b) that medical treatment should be provided as part of the National Medical Service; and

(c) that post-hospital rehabilitation should be provided as part of the general service to be organised for this purpose by the Ministry of Labour and National Service.



### III.—THE GOVERNMENT'S VIEWS

23. (i) The Government endorse generally the criticisms of the existing system made in the Report. In particular, they consider it to be too complicated and to allow too much scope for contention between the workman (or his trade union) and the employer (or the insurance company or mutual association with which he is insured); it thus tends to retard the workman's recovery and to prejudice good relations between him and his employer. The cases in which actual legal proceedings are taken form only a small fraction of the total number, but even so they number some thousands annually, and in addition there are numerous cases which are settled, by lump sum payments or otherwise, without legal proceedings but only after considerable negotiation. Moreover, in the event of a dispute the workman is apt to feel that he is placed on an unequal footing with the employer or his insurers, and to suspect that the opposition to his claim is not based on merits but is actuated by motives of financial interest.

(ii) The Government consider it essential to provide that in future claims should be made on an independent authority and settled by a procedure less liable to give rise to friction. This, however, involves a complete change of system. So long as the liability to pay compensation is the liability of the employer it is difficult to justify taking the administration out of his hands, or to substitute for litigation less formal, contentious, and costly methods for the settlement of doubtful cases.

(iii) The principle of placing the liability on the individual employer has had other unfortunate consequences. For example, the employer generally protects himself by insurance, and the premiums or levies are fixed according to the risks of the particular industry or class of employment, so that broadly speaking each industry carries its own risks. The result is that the heaviest liability falls on the hazardous employments, which include certain important industries such as mining and shipping, which have to face foreign competition. It is sometimes claimed that the imposition of the liability on the individual employer conduces to safety by giving a direct financial incentive to employers to adopt greater precautions; but as pointed out later (paragraph 31 (ii)) it would not appear that it has, in fact, made any material contribution in this direction. On the other hand, the principle of pooling risks recognises a community of interest between different industries. It is a principle which has found acceptance in other fields, such as unemployment insurance, and which will be widely extended under the new scheme of social insurance. The Government consider that it should also be adopted for insurance against industrial accident and disease.

(iv) The general conclusion reached by the Government is that the time has come when the present system should be replaced by a new scheme, the general structure of which should be based on the accepted principles of social insurance.

(v) The Government have considered the possibility of including cases of industrial accident or disease in the general scheme of social insurance on the same terms as disability arising from other causes and superimposing on that scheme a liability on the individual employer to provide additional benefits in accordance generally with the provisions of the existing system. Such an arrangement, however, by perpetuating the principle of the liability of the individual employer for the purpose of the supplementary benefits, would retain the defects of the existing system. Moreover, the workman would have to make his case concurrently to two separate authorities under widely differing procedures. In the view of the Government it would be difficult, if not impossible, to co-ordinate satisfactorily the two systems.

24. (i) Proceeding on the basis that the new scheme should be founded on social insurance principles, the Government agree with the proposals in the Report that the new scheme should be comprehensive in scope—that is, that broadly speaking it should apply to all persons working under a contract of service including non-manual workers without any income limit; that the cost should be borne by a central fund maintained by contributions from employers and workmen, with a contribution from the Exchequer; that claims should be dealt with by administrative rather than legal procedure; and that the responsibility for the general administration and supervision of the working of the scheme should rest on the authority responsible for the general scheme of social insurance.

(ii) The Government recognise that there is a strong case for providing special benefits for industrial casualties, both on historical and on other grounds. In the industries where most of the industrial accidents occur workmen are exposed to far greater risks than citizens in the ordinary walks of life. In coal mining, for example, in every year one workman out of every six engaged in the industry meets with an accident. The Government think it reasonable therefore to make special provision for industrial casualties, both in disablement and in fatal cases. Further, they agree that benefits should not be conditional on payment of a minimum number of contributions.

(iii) The Government also concur in the recommendations that the practice of commuting weekly payments for lump sums should cease, and that provision for medical treatment and post-hospital rehabilitation of industrial disability cases should be dealt with as part of the national schemes for these purposes.

25. The Government, however, for the reasons given in the following paragraphs, are unable to accept certain of the main proposals of the Report. Some of these involve what appear to the Government to be unwarranted departures from the generally accepted principles of social insurance. Others would retain features of the existing system which have proved unsatisfactory in practice and have given rise to much complaint, or would introduce fresh difficulties which it should be an aim of the new scheme to avoid. The proposals which the Government do not accept are—

(a) the limitation of special rates of benefit for industrial disability to cases of more than thirteen weeks duration;

(b) the proposal to relate industrial pensions for long term disability to the earnings of the workman before the accident in cases of total incapacity, and to his earnings both before and after the accident in cases of partial incapacity;

(c) the provision proposed for dependants in fatal cases, not by way of pension, but by a single payment termed “ industrial grant ”; and

(d) the imposition of a special levy upon employers in certain industries to be scheduled as hazardous.

### **Limitation of special rates of benefit to long term cases.**

26. (i) The Government do not think it right to limit special provision for cases of industrial disability to cases where disability continues beyond a specified period. As the Report points out, cases which last longer than thirteen weeks constitute not more than 10 per cent. of the total. Moreover, the single workman without dependants has, in fact, normally been receiving under existing legislation 35s. weekly during the first 13 weeks, and the Government think it would be unreasonable, particularly under a contributory scheme, to require him to accept a lower rate such as that of 24s. mentioned in the Report.

(ii) One of the special advantages claimed in the Report in support of partial unification with the social insurance scheme is that, under the arrangement

for giving ordinary disability benefit for the first 13 weeks, there would as a rule be no need to decide whether the accident or disease arose out of and in the course of employment. There would, however, be a number of cases where, in view of the possibility that the workman would be disabled for more than 13 weeks, it would be necessary to ascertain the cause at an early stage, and in any event, as the Report admits, it would be essential that the Social Insurance Authority should record and analyse all its experience. In the great majority of cases, no dispute arises as to the origin of the injury, and the Government think that the advantage claimed in the Report on this ground for unification of rates during an initial period can be exaggerated.

27. The Government agree with the proposal that there should be an initial period during which a temporary allowance would be payable, but in their view this allowance ought to be at a higher rate than that proposed for non-industrial disability. This allowance should be replaced, if the disablement is likely to be permanent or prolonged, by an industrial pension, but the Government do not favour an arrangement by which the date of transfer from temporary allowance to pension would be determined entirely without reference to the condition of the workman or his prospects of recovery. Moreover, if a hard and fast line were drawn at the end of the thirteenth week for transferring cases from allowance to pension, it would be difficult to provide for the case mentioned but not dealt with in the Report, of a workman who has partially recovered before the end of that period and is fit for some employment. A more flexible system is required under which a pension can be awarded at a date appropriate to the circumstances of the individual case.

### **Relation of industrial pensions to earnings.**

28. (i) The proposal to relate pensions to earnings contravenes a principle to which the Government attach importance, and which is otherwise adopted generally in the Report, namely that there should be differentiation in benefits only according to family responsibilities, and that subject to provision for such responsibilities, there should be uniform flat rates of benefit in return for uniform flat rates of contribution. Further, the assessment of workmen's compensation by reference to earnings has given rise, as indicated below, to serious difficulties and objections.

(ii) The calculation of the average weekly earnings over a period before the accident has been repeatedly criticised on the ground that the earnings so determined do not necessarily represent the normal earning capacity of the workman; in times of full employment and overtime, as at present, they go beyond, and in times of trade depression they fall below, his normal earning capacity. It is urged that it is hard on a workman who meets with an accident when his earnings are relatively low that he should be penalised by receiving correspondingly low compensation, and that the sense of hardship is accentuated if he sees that another workman in the same employment, who has suffered an injury similar to his own, but at a time of good trade, is receiving compensation at a higher rate.

(iii) Alternative methods for calculating earnings have been put forward, the underlying idea being to base the compensation on a hypothetical figure representing what the workman might be expected to earn under normal conditions. Such a procedure would, however, introduce a great element of guess-work, and would be likely to result in more frequent disputes. Discussions with representatives of the employers and workmen have not disclosed any satisfactory solution of this problem.

(iv) Another possibility which has been examined is that of fixing compensation by reference not to actual earnings but to the standard rate of remuneration applicable to the employment. There are, however, many industries and employments in which there is no standard rate; and in others the standard

rate is not applicable to all classes of workmen employed in the industry, or varies in different districts, and the Government are advised that such a method would give rise to even greater difficulties than the present system.

(v) Further, the assessment of the weekly payment in cases of partial incapacity on the basis of a proportion of the difference between the pre-accident earnings of the workman and what he is earning or is able to earn in some suitable employment or business after the accident, has given rise to much dispute and has often had most unfortunate results. In many cases the workman has felt that the work offered to him was not suitable for his capacity or would otherwise be prejudicial to his complete recovery, or he has felt aggrieved because, though his compensation has been reduced, no work of the kind for which he is fitted has, in fact, been available. Or again, he has been reluctant to resume his old employment or undertake new employment from fear that his compensation would be reduced and that, if he failed to make good owing to his disability, he would find it difficult, if not impossible, to get his compensation restored to its previous level. In such cases the psychological effect is to delay the recovery of the workman.

(vi) Similar considerations have sometimes operated to make the workman reluctant to submit to any rehabilitation treatment, and the Delevingne\* and Tomlinson† Committees on Rehabilitation have both commented on the possible adverse effects on workmen who have only partially recovered, of a system under which the provision of light work may be regarded chiefly as a means of reducing the compensation. The former Committee recommended (page 57 of their Report) "that an injured workman's capacity for light work which can be reached at a certain stage of his treatment should be regarded not from the point of view of compensation and as a reason for reduction of the compensation, but solely as a means by which the complete restoration of his working capacity can be furthered." The Tomlinson Committee (paragraph 44 of their Report) while accepting the view that light work as an aid to restoration may, in some cases and subject to certain conditions, more suitably be given in industry than in a special centre, strongly deprecated "a system under which the provision of light employment is treated not as part of the rehabilitation process but merely as a factor in determining the quantum of compensation."

(vii) Another grievance has been that, whenever there is an increase in wage rates resulting in increased earnings, the weekly payments of compensation to partially disabled workmen are reduced under the method prescribed in the Acts by half the amount of the increase, so that the workman does not get the full benefit of the addition. An attempt was made in the Workmen's Compensation Act, 1943, to mitigate this complaint by providing that, whenever a change takes place in the rates of remuneration in the class of employment in which an injured workman was previously employed, his average weekly earnings can be recalculated, at the instance of either the employer or the workman, on the basis of what his earnings would have been had the changed rates been in operation over the relevant period before the injury. As a result of this provision, which applies to total as well as to partial disablement cases, many disabled workmen have been able to get their weekly payments increased; and, so long as wages tend to increase, this provision benefits the workman. But in the event of a fall in wage levels, the compensation rates over a wide field would be subject to reduction, and the Government doubt whether any scheme which provides for fluctuations of benefit according to whether wages rise or fall would in the long run be found to be satisfactory.

\* Inter-Departmental Committee on the Rehabilitation of Persons Injured by Accidents, 1939.

† Inter-Departmental Committee on the Rehabilitation and Resettlement of Disabled Persons, 1943 (Cmd. 6415).

29. (i) The principle of providing compensation based on loss of earning capacity, which the Report proposed to retain in all cases of more than thirteen weeks' duration, is the cause of all the difficulties referred to in paragraph 28 above and in the Government's view these difficulties are insuperable so long as this principle is retained. It necessitates in all such cases, whether of total or of partial incapacity, the calculation of pre-accident earnings, and in cases of partial incapacity it necessitates also the calculation of post-accident earning capacity. This method of assessing compensation moreover must necessarily be accompanied by a system of review at any time of the weekly payment in order to ascertain whether (a) incapacity still exists, and if so, to what extent, and (b) whether the loss of earning capacity is properly ascribable to the injury or to other causes.

(ii) The Government have come to the conclusion that the only satisfactory solution is to abandon the principle of awarding compensation in respect of loss of earning capacity, and to adopt two completely new features for the assessment of industrial pensions. These features are:—

(a) to provide, in accordance with the generally accepted principle of social insurance, uniform flat rates of pension without regard to pre-accident earnings, but taking account of family responsibilities; and

(b) to give benefit according to the degree of disablement due to the injury in the same way as is done under war pensions schemes, namely through an assessment by a Medical Board of the condition of the workman resulting from the injury as compared with the condition of a normal healthy person of the same age and sex.

(iii) The new principle of giving compensation for the injury itself and not for loss of earning capacity is a cardinal feature of the Government proposals. It has the following advantages:—

(a) By getting rid of the distinction hitherto drawn between total and partial incapacity for work, and giving the workman who has suffered an injury causing permanent or prolonged disablement a pension commensurate with the assessed degree of disablement, irrespective of his earning capacity, it eliminates as a cause of dispute the questions whether or to what extent the workman has recovered his earning capacity.

(b) It removes the grievance that an improvement in the workman's earning capacity results in an automatic reduction of his compensation.

(c) It avoids any ground for suspicion on the part of the workman that he is being pressed to return to unsuitable work with a view to reduction of his compensation, and the fear that if he returns to work he will jeopardise his right to further compensation; and it should remove any hesitation he may feel in submitting to a course of rehabilitation treatment. It should thus promote a more speedy recovery.

(d) It helps to meet the complaint often made that no compensation is provided for mutilation or disfigurement except in so far as it causes loss of earning capacity.

(iv) The Government have considered whether in conjunction with the new principle of assessment there might be rates of benefit varying according to compartments of earnings, so that the higher paid workman would receive benefit at a higher rate than the lower paid workman. It is, however, impossible to reconcile this differentiation of benefit with uniform contributions, and it would involve the calculation of earnings, the objections to which have been set out above. Further, if there were only a few compartments there would be complaints of hardship in cases where the workman's earnings just failed to qualify him for a higher rate of pension which others, perhaps in the same employment, might attain. On the other hand, a large number of compart-

ments would involve a precise calculation of earnings in a large number of cases. The possibility has also been considered of differentiation between grades (e.g. manager, foreman, skilled or other workman), but as there are no definite and uniform grades recognised throughout industry, any such demarcation would be entirely arbitrary.

(v) The Government appreciate that in some cases of higher paid workmen, benefits at the uniform flat rates proposed in the Government scheme (paragraphs 38-46) would not work out so favourably as payments under the scheme proposed in the Report based on loss of earning capacity, but they are satisfied that, taking into account the new principle of assessment, the benefits under the Government scheme will in the great majority of disability cases be more favourable. It should be borne in mind that experience of the war pensions schemes shows that a large proportion of pensioners whose disablement is assessed at 100 per cent are capable of substantial earnings.

(vi) The Government believe that arrangements on the lines proposed, which have worked satisfactorily in the case of civilian war injuries, can be applied without difficulty to industrial injury though in some classes of industrial disease their application will call for special provisions.

### **Fatal Cases.**

30. The Government agree that special provision should be made in fatal cases resulting from industrial accident or disease, but they do not agree with the proposal in the Report that this provision should be by way of the grant of a lump sum, in addition to social insurance benefits but taking account of them. They do not regard lump sum payments, even if administered under strict control, as a satisfactory method of assuring an income. Further, if the lump sum were to be of the order contemplated in the Government Actuary's Memorandum on the finance of the proposals (an average of £300 where a total dependant is left—see Appendix A to the Report), they think that the provision might often fall short of what is necessary and appropriate. The Government consider that provision for dependants in fatal cases should be by way of pension or weekly allowance.

### **Special Levy on Employers in the Hazardous Industries.**

31. (i) The fourth proposal in the Report which the Government cannot accept is the proposal that a substantial part of the fund for payment of benefits should be found by means of a special levy on employers in the hazardous industries. This proposal involves a departure from the principle of all "standing-in" with complete pooling of risks—a principle which, as the Report points out, has found widespread acceptance and is adopted generally in other branches of social insurance. Hazardous industries are not hazardous because the employers in them are less active in the prevention of accidents than other employers, or because the workmen in those industries are less careful than other workmen. They are hazardous because of the nature of the employment and the inherent risks. The proposal needs, therefore, strong grounds to justify it, particularly as the special levy would fall most heavily on certain important industries which have to meet foreign competition.

(ii) The main ground advanced in the Report for this departure is that by introducing "merit rating," i.e. fixing the employer's contribution according to the risks either in particular industries or in individual undertakings, a real financial incentive would be given to employers to take measures for the prevention of accidents. The Government are not satisfied that merit rating based on the risks in particular industries would have this effect. Merit rating on this basis is, in fact, the general practice on which insurance against workmen's compensation risks is conducted under the present system in the hazardous

industries, and it is applied not merely to a part but to the whole of the charge involved by the Acts; but it would not appear from the Reports of the Departmental Committees of 1904\* and 1920† which enquired into the operation of the Acts, or from any other information in the possession of the Government, that this practice has made any significant contribution to safety. It must be borne in mind that a substantial number of accidents are due to causes outside the employer's control—many, for example, are attributable to risks inherent in the conditions of the employment, as in the mining industry where many accidents occur through the operation of released natural forces. Moreover, the whole charge in respect of industrial compensation is, and under any new scheme will continue to be, a comparatively small item in relation to wages and other costs of production. As regards merit rating according to risks in individual undertakings, this system might, if it were possible to introduce it on an extensive scale, prove more effective, though even so, the variation of premiums or levies would be of small amount. Having regard, however, to the wide differences in conditions between different works, due largely to causes outside the employer's control, the Government do not think that any system of this kind could be operated on an equitable basis, and they feel sure that the complication and expense involved in any such system would be out of all proportion to the results likely to be achieved.

(iii) The proposal in the Report is to define hazardous industries as "those having *materially* more than the normal risk of accident and disease in industry as a whole." There are wide variations in the hazards of different branches of the same industry, some processes being hazardous and others not: and, moreover, industrial hazards are not constant but are subject to frequent change. It follows that there would be great difficulties of definition, and there would consequently be much scope for contention as to whether particular industries or branches of industries were rightly included in, or excluded from, the hazardous list at any given time. Complications would also arise from the existence of large undertakings engaged in a wide variety of production, including processes belonging to different industries, some hazardous and some comparatively safe.

(iv) If a special levy on employers in hazardous industries were adopted, it is difficult to see why it ought not to be extended to the workmen engaged in those industries. The prevention of accidents in these as in other industries depends in large part on the care exercised by the workmen, and it may be argued that in their case, as in the case of the employers, it is desirable to emphasise the need for constant vigilance.

(v) For these reasons the Government do not consider that the proposal for a special levy is justified. Their view is that for further progress in prevention of accidents reliance must be placed on other means, such as the development of the standards set up under the Factories, Mines and other safety enactments, and increasing co-operation between employers and workmen. In a number of hazardous industries joint machinery for dealing with safety questions already exists—sometimes under statutory powers and sometimes through voluntary action—and the Government would welcome the establishment of such joint bodies in all industries in which there are substantial risks of industrial accident and disease.

(vi) They accordingly propose that, following the principle in Health and Unemployment Insurance, the whole cost of the benefits under the scheme should be borne by weekly contributions from employers and workmen, with a contribution from the Exchequer, without discrimination between industries.

\* Cmd. 2208.

† Cmd. 816.

#### IV.—GOVERNMENT PROPOSALS FOR INDUSTRIAL INJURY INSURANCE SCHEME

32. (i) The following is an outline of the new scheme proposed by the Government. Several important questions remain to be settled—as for example, the special provisions which will be required to adjust the Scheme in its application to seamen and to cases of industrial disease; there are also many details which will require further consideration in the working out of the full scheme, and discussion with representatives of employers and workmen will be necessary.

(ii) In view of the special benefits which it is proposed to provide, the Scheme cannot be unified with the general scheme of social insurance, but must be treated as a separate branch of social insurance.

(iii) The benefits provided under the Scheme will take the place of the cash benefits payable under the general scheme in cases of disability and of the widow's, orphan's and guardian's benefits in cases of death. No funeral benefit will be payable under this Scheme: this will be provided by the death grant proposed under the general scheme of social insurance.

##### Scope of Scheme.

33. (i) The Scheme will cover broadly all persons working under a contract of service or apprenticeship, and will correspond closely with Class I of the classification under the general social insurance scheme. It will not apply to those under school-leaving age, but otherwise it is intended to cover all classes of persons covered by the existing Acts and it will apply to non-manual workers without any income limit. No provision is contemplated for "contracting out" schemes such as are permitted under the existing Acts.

(ii) The Scheme will apply to personal injury by accident arising out of and in the course of employment, and to specified industrial diseases. It is proposed to adhere generally to the principles at present recognised in extending the Acts to diseases due to industrial employment. The Government are aware of the criticisms which have been made of the phrase "arising out of and in the course of employment," but they do not think any other form of words would be found in practice to be more satisfactory. They consider it essential to provide that there should be a causal connection between the injury and the employment.

(iii) It is also proposed that the provision in the existing Act for persons engaged in rescue work in mines should be enlarged in scope so as to cover accidents to persons engaged in rescue work and other specified classes of emergency work in connection with industrial undertakings generally.

(iv) The present Act provides that if it is proved that the injury is attributable to the serious and wilful misconduct of the workman any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed. It is proposed to include a similar provision in the new Scheme.

##### Finance.

34. (i) An Industrial Injury Insurance Fund will be set up out of which all benefits and administrative charges will be paid. The Fund will be maintained by weekly contributions from employers and workmen, with a contribution from the Exchequer.

(ii) Employers and workmen will pay the same weekly contributions. Equal contributions will be required for the main benefits under the general scheme of social insurance, and from the workman's point of view it would seem



desirable that he should be on an equality in this respect with the employer. Moreover, it is proposed (paragraphs 35 and 36) that workers and employers should share equally in the development and administration of the Scheme, being equally represented on the Advisory Committee or Council and on the local appeal tribunals, and equal contributions are a natural, if not necessary, corollary of such arrangements. Under this arrangement, employers and workmen will each contribute five-twelfths of the cost and the Exchequer will contribute one-sixth.

(iii) Women will receive the same basic rates of benefit as men, but since the allowances proposed for dependants—see paragraphs 40 and 46—will be payable mainly to or in respect of dependants of male workmen, the rates of contribution for women will (as under the general scheme) be lower than those for men. There will also be lower rates of contributions with lower rates of benefits for juveniles under 18.

(iv) The contributions will be collected by stamp, together with the contributions under the general scheme of social insurance. The employer will pay the joint contribution and will have the right to deduct the workman's share from his wages.

(v) Benefit will not depend on a contribution qualification.

(vi) The contributions will not be payable when the workman is incapacitated for work or unemployed.

### **General Administration.**

35. (i) Although the Scheme will be separate from the general scheme of social insurance, the administration of the two schemes should be integrated to the fullest possible extent; and, for this reason and on grounds of economy, the Government propose that the general administration and supervision of the working of the Industrial Injury Insurance Scheme should be entrusted to the Authority responsible for the general scheme that is, the Minister of Social Insurance—see paragraph 152 of Part I of this paper, and that the offices and staff set up under that scheme should be used wherever possible.

(ii) The Government also consider it important to provide for the collaboration of industry in the development and administration of the Scheme, and they propose that an Advisory Committee or Council should be set up on which employers and workmen would be equally represented, for the purpose of advising the Minister on important questions of policy and administration referred to them.

(iii) Questions as to insurability and liability to contribute will be settled, as under the general scheme of social insurance, by the Minister subject to the right of the Minister in special circumstances to submit the question for decision to the High Court (in Scotland, the Court of Session). A party aggrieved by a decision of the Minister will have a right of appeal to the High Court (in Scotland, the Court of Session) on questions of law.

### **Procedure for Settlement of Claims**

36. (i) All claims will, in the first instance, be dealt with by an Industrial Pensions Officer located in the local Social Insurance office, one of whose duties will be to advise and assist applicants for benefits under the Scheme in the submission of their claims. Claims in respect of disablement will normally be met on an application by or on behalf of the workman (giving such particulars of the injury and family responsibilities as may be prescribed, and accompanied by a certificate from his medical adviser or hospital authority) and on confirmation of the injury by the employer. The workman will continue as at present to be under an obligation to give notice of his injury to the employer and the employer will be required to report the injury to the Pensions Officer.

In cases of doubt the Pensions Officer will make such further enquiry as may seem desirable, and will have the right to require the applicant to submit to an examination by an appointed Medical Officer. In cases of industrial disease, it may be necessary to require, in lieu of a certificate from the workman's own doctor, a certificate from the Examining Surgeon appointed under the Factories Act, or some other specially appointed medical officer or authority. It is contemplated that the certification of silicosis, asbestosis, and other forms of pneumoconiosis will be carried out as at present by a special medical board, and similar machinery may be necessary for other industrial diseases.

(ii) The decision of the Industrial Pensions Officer on questions of entitlement (such as e.g. whether the injury arose out of and in the course of employment; whether the disablement or death was due to the injury or whether it was due to serious and wilful misconduct), and, except so far as may be otherwise provided, on other questions arising in connection with the determination of claims, will be subject to appeal to a local appeal tribunal, on which employers and workmen will be equally represented, presided over by an independent Chairman with legal qualifications. It will also be open to the Pensions Officer to refer any such question to the local appeal tribunal without himself giving a decision. Where in a particular case medical issues are involved or are likely to arise, provision will be made for one or more medical practitioners to join the tribunal either as members or in an advisory capacity.

(iii) There will be further rights of appeal to an Industrial Injury Insurance Commissioner on leave being given either by the Chairman of the local appeal tribunal or by the Commissioner on questions of law or on such other questions as may be prescribed. The Commissioner will be appointed by the Crown, and his decision will be final. Provision will also be made for the appointment of one or more deputy Commissioners with power to act in place of the Commissioner.

(iv) The medical assessment for pension, when the workman's condition is considered to warrant it, will be made by a medical board, and it is contemplated that the Medical Boards of the Ministry of Pensions might be utilised for this purpose. There will be rights of appeal against a final assessment, or in certain cases against an interim assessment, to a tribunal consisting of a chairman of a local appeal tribunal and two medical practitioners.

(v) Any arrangements necessary for continued medical supervision will be made by the Ministry of Social Insurance. It will be the concern of the Ministry to see that the workman receives any medical treatment or course of training available to him under the national services which may be appropriate in his case, and there will be an obligation on the workman to undergo such treatment or training.

## Benefits.

37. (i) In framing the benefits set out below, the Government have had regard to the provision made in the existing Workmen's Compensation Acts, the war pensions schemes, and the proposals for the general social insurance scheme. The main benefits in industrial disablement cases will consist of an industrial injury allowance followed, in cases of permanent or prolonged disablement, by an industrial pension. In both cases allowances will be paid in respect of family responsibilities.

(ii) In view of the Government scheme of family allowances special provision will be made in industrial disablement cases for the first child only.

(iii) The Appendix to this Paper contains (a) a comparison between the rates of injury allowance and pension for 100 per cent. disablement for adults proposed under this Scheme and the rates for total incapacity under the

Beveridge plan and under the existing Acts, and (b) a comparison between the benefits in fatal cases under this Scheme, the Beveridge plan and the existing Acts.

### **Industrial Injury Allowance.**

38. An injury allowance will be payable so long as the workman remains incapacitated for work as the result of an industrial injury, unless it is replaced by an industrial pension. The rate of the allowance will be initially 35s. weekly, but if the workman has not previously been assessed for pension it will be raised at the end of the thirteenth week to the industrial pension rate for 100 per cent. disablement. As under the existing practice of workmen's compensation, the injury allowance will not be payable in respect of the first three days if incapacity lasts less than four weeks.

### **Industrial Pension.**

39. (i) Where the disablement is likely to be permanent or prolonged, the injury allowance will be replaced by an industrial pension based on the degree of disablement caused by the injury as assessed by the medical board. An industrial pension will, unless the workman's condition permits of a final assessment of the extent of the disablement, be awarded on a temporary basis until a final assessment can be made. If at any time a workman ceases to be incapacitated for work but still suffers some disablement on account of the injury, he will be entitled to apply for a pension to be assessed forthwith.

(ii) The rate of pension proposed where the degree of disablement due to the injury is assessed at 100 per cent. will be 40s. weekly. Where the degree of disablement is assessed at less than 100 per cent the pension will be proportionate to the degree of disablement.

(iii) Following the practice in war pensions, special provision will be made for the pensioner who notwithstanding remedial measures remains, by reason of his industrial injury, virtually unemployable. In such cases a personal supplement of 10s. weekly will be provided.

### **Family Allowances**

40. The following allowances will be payable, in addition to the injury allowance or pension.

(i) An allowance will be payable in respect of a wife to whom the workman was married at the date of the injury and who was either residing with or wholly or mainly dependent on him. Where the injury allowance is 35s. the allowance for a wife will be 8s. 9d. weekly, and where it is 40s., or where a 100 per cent. disablement pension is awarded, it will be 10s. weekly.

(ii) An allowance will be payable in respect of a first child of the workman who is wholly or mainly dependent on him. Where the injury allowance is 35s., the allowance for the child will be 5s.; and where it is 40s., or where a 100 per cent. disablement pension is awarded, it will be 7s. 6d. weekly. The allowance will be payable up to the age of 15 and thereafter so long as the child remains under full time instruction in a school (or is an apprentice) up to the 31st July following the 16th birthday. "Child" will include a child of the workman who was born not later than 9 months after the date of the injury, or a stepchild whose mother or father was married to the workman before the injury, or a child legally adopted by the workman before the injury.

(iii) Where a pension at less than the 100 per cent. rate is awarded, allowances proportionate to the pension will be payable in respect of the wife and first child.

(iv) Where no wife's allowance is payable the workman will be entitled, so long as he remains incapable of work as a result of the injury, to claim an allowance, at the rate for a wife, in respect of one adult person in respect of whom a dependant allowance would be payable under the general scheme of social insurance in cases of ordinary disability. Thus a workman will be able to claim an allowance (subject to the same conditions as will apply under the general social insurance scheme) in respect of an invalid father or widowed mother, or adult sister or daughter, or a housekeeper, whether resident or non-resident, who looks after his dependent children.

(v) Where a personal allowance is awarded in respect of virtual unemployability, allowances at the 100 per cent rate in respect of a wife and first child will be payable irrespective of the date of marriage or the date of birth of the child.

### **Maintenance in Hospital and Treatment Allowance.**

41. (i) A workman admitted to hospital for treatment will be entitled under the new National Health Service to be maintained in hospital without charge. It is proposed under the general social insurance scheme that the benefits under that scheme shall be reduced during maintenance in hospital in respect of home savings, after twenty-eight days. Under the existing Workmen's Compensation Acts the weekly payment to the disabled workman has not been subject to reduction during his maintenance in hospital and in view of this it is proposed that the workman disabled by industrial injury and removed to hospital shall receive his cash benefits in full without deduction, as part of the special benefits provided for industrial casualties.

(ii) Where an industrial pensioner has to re-enter a hospital or institution for further approved treatment for disability due to his injury, his pension will whilst undergoing such treatment be at the 100 per cent. rate with full family allowances related to his responsibilities at the time, but the pension will be subject to a deduction of 10s. a week in respect of home savings.

### **Allowance for constant attendance.**

42. Where a workman has been awarded an industrial pension for disablement assessed at 100 per cent., and needs constant attendance on account of the disablement, he may be awarded a special allowance at a weekly rate not exceeding 20s.

### **Women.**

43. Women will be entitled to injury allowance and pension at the same basic rates as men. A married woman whose husband is wholly or mainly dependent on her earnings and incapable of self-support will be entitled to an allowance for her dependent husband (at the rate for a wife) together with an allowance in respect of a first child, subject to the conditions applicable to the first child of a male workman. Where no husband's allowance is payable, a woman will be entitled to claim an allowance for a dependant on the conditions applicable to a male workman.

### **Juveniles.**

44. The rates of benefit for unmarried workmen under 18 years of age will be half the rates for an adult, to be raised to the adult rate on attaining 18 years of age. Any dependant's allowances payable will be at the full rates.

### **Minor Injuries.**

45. Where an injury results in only a minor degree of disablement, provision will be made for a final settlement by an award of a gratuity, or of a temporary

allowance at a special rate with or without a final gratuity. If successive injuries occur resulting eventually in substantial disablement, the case will be reviewed on the basis of the disablement resulting from the combined injuries.

### **Pensions and Allowances in Fatal Cases.**

46. The following provision will be made for the payment of pensions and allowances to widows and children and to other dependants of the workman subject to the conditions set out in each case and to the general conditions as to dependency mentioned in sub-paragraph (ix) below.

(i) The widow of a deceased workman, who was married to him previous to the injury and was resident with him at the time of death, will receive (a) if she is 50 years of age or over, or being under that age has the care of a child of the workman or is incapable of self-support, a pension of 30s. weekly and, (b) in other cases, a pension of 20s. weekly. If she would have qualified under the general scheme of social insurance for a widow's benefit at a higher rate for an initial period following the death, an allowance at that rate will be payable for a similar period and pension will begin when the allowance ends. Where a widow under 50 years of age is awarded a pension at the 30s. rate because she has the care of a child of the workman, the pension will continue at this rate when the child ceases to be qualified for allowance if she has then attained the age of 50 years. In the case of a widow who was separated from the workman, provision will be made for the award of a pension in accordance with any payment she has been receiving or entitled to receive from him, subject to a maximum of the appropriate rate above. On re-marriage, the pension will cease but there will be a marriage gratuity equal to one year's pension.

(ii) An allowance of 7s. 6d. weekly will be payable in respect of a first child of the workman (child being defined as in paragraph 40(ii)). As under the general scheme of social insurance, there will be a weekly allowance of 12s. (of which 5s. will be provided by the Exchequer) for each child who becomes an orphan (i.e. a child both of whose parents are dead) by the death of the workman.

(iii) Where the workman was in receipt at the time of death of an allowance in respect of virtual unemployability, the widow's pension and the allowance in respect of a first child will be payable irrespective of the date of marriage or the date of the birth of the child.

(iv) A widower whose wife was married to him previous to her injury and was resident with him at the time of her death will be eligible for a pension of 20s. weekly, if he is incapable of self-support.

(v) A pension will be payable, whether or not a widow's pension is payable, to a parent who is incapable of self-support. The maximum rate of pension for one parent will be 20s. weekly or, if both parents qualify, 30s. weekly.

(vi) Where no pension is payable to a widow or a parent, one other adult member of the deceased workman's family who was residing with him at the time of the injury, will be eligible for a pension if incapable of self-support. The maximum rate of pension will be 20s. weekly.

(vii) Where no pension is payable under the foregoing provisions, a woman, whether or not a member of the deceased workman's family, who was residing with the workman at the time of the injury, will be eligible for temporary pension if she has the care of his child or children. The maximum rate will be 20s. weekly and the pension will be payable so long as at least one child is within the qualifying age for allowance under the Scheme.

(viii) Any adult member of the deceased workman's family who is not eligible for any pension under this Scheme will be eligible for a temporary allowance of 36s. weekly for 13 weeks.

(ix) The foregoing pensions and allowances will be subject to the condition that the claimant was wholly or mainly dependent on the workman at the time of the injury and either continued to be so dependent up to the date of death or would but for the injury have been so dependent. The widow and the first child will be deemed to have complied with this condition and will be treated as wholly dependent on the deceased if they were resident with him at the time of death; and some further modification as to the requirement of dependency at the time of the injury will be necessary in the cases referred to in sub-paragraph (iii) above. The maximum rate in sub-paragraphs (v), (vi) and (vii) will be given where the dependant had been wholly maintained by the workman; in other cases the amount will be proportionate to the degree of maintenance which had been given. In the case of a female dependant, the pension will cease on subsequent marriage. A person incapable of self-support means a person prevented by reason of physical or mental infirmity of a permanent or prolonged nature from supporting himself.

### Cost

47. (i) It is estimated that before the war the cost of workmen's compensation paid by employers, excluding administrative cost, was about £10 millions per annum, and that the total cost including administrative cost was about £13 millions. Wartime legislation is estimated to have increased the cost of compensation to about £17 millions, and it will also have increased the administrative cost to a substantial, though not to a proportionate, extent.

(ii) Assuming rates of wages at about 25 per cent in excess of their level in 1938, and the restoration of peacetime conditions before the introduction of the social security scheme, the Government Actuary estimated that the cost of benefits for industrial cases under the proposals in the Report (excluding administrative cost) would be about £15 millions per annum, of which £10 millions was to be found by tripartite contribution and £5 millions by a special levy on employers in the hazardous industries (see Appendix A to the Report).

(iii) It is difficult to make a comparison between the cost of the Government proposals and the cost under the existing Acts or under the proposals in the Report, since the Government Scheme is based on flat rates of benefit which are not related to earnings. The benefits under the Government Scheme would, however, in some important respects be substantially more generous to the workman than those recommended in the Report. For example, during the first 13 weeks of incapacity the single man would get 35s. per week instead of 24s. The cost of industrial pensions also will in most cases be substantially greater owing to the new method of assessment proposed. The Report did not fully specify the provision contemplated for fatal cases, but it seems clear that the cost of the pensions proposed under the new scheme will be substantially higher. Whilst, therefore, it is impossible to make an accurate forecast of the total cost of benefits under the new scheme, the Government are advised that it will materially exceed the cost of the proposals in the Report and is likely to be of the order of £20 millions a year.

(iv) The cost of administration under the Scheme expressed as a percentage of the cost of benefits should, over the whole field, be lower than under the existing system. The Government are advised that pending experience of the working of the Scheme it would be wise to allow 15 per cent of the cost of benefits for administrative charges.

(v) Assuming the cost of benefits under the Government proposals to be of the order of £20 millions, and taking a further £3 millions as the cost of administration, the Government are advised that allowing for excusals in respect of disability and unemployment, the ~~weekly contribution required for men~~

will be 6d. and that for women 4d. If the contribution is divided equally between employers and workers as proposed in paragraph 34, the weekly rate for each will be 3d. for men and 2d. for women. The rates for boys and girls under 18 years will be half the rates for men and women. These contributions would provide five-sixths of the income of the Fund, the remaining one-sixth being contributed by the Exchequer.

### **Overlapping of Benefits with other Schemes.**

48. The question of overlapping benefits is dealt with in Part I of this paper. One such case where adjustment will be required is that of the industrial pensioner who qualifies for sickness or unemployment benefit; another is the industrial pensioner, who becomes qualified for a retirement pension. Similarly in fatal cases, overlapping will occur if the dependants qualify for sickness or unemployment benefit or retirement pension. These, however, are only examples of the many types of case where benefits may overlap, and the Government have reserved the treatment of all such cases for further consideration.

### **Medical Treatment and Rehabilitation.**

49. The medical treatment and rehabilitation of injured workmen and post-hospital rehabilitation and training will be provided as part of the general medical and post-hospital rehabilitation services organised by the Health Departments and by the Ministry of Labour and National Service respectively, though it may be reasonable that a contribution from the Industrial Injury Insurance Fund should be made towards the cost of the latter service. Close contact will clearly have to be maintained between the Ministry of Social Insurance and the Departments responsible for these services with a view to ensuring that the injured workman secures full benefit from them. It is important that there should be consultation between the Ministry and these Departments on all major questions affecting the treatment of industrial pensioners. The Ministry should be able to furnish the Departments with much useful information and advice as the result of experience of the Scheme, and of the comprehensive statistics which it will have collected as to the incidence and effects of industrial accident and disease.

### **Prevention of Accidents.**

50. It is not contemplated that the Ministry of Social Insurance should have any responsibility for the prevention of industrial accidents and diseases, but its position will give it a unique opportunity to contribute valuable information in this sphere and in this and other ways it will be able to promote and assist research. It will be one of its functions to survey and analyse the incidence and effects of industrial accidents and diseases over the whole of the industrial field.

### **Application of the new Scheme to past cases.**

51. (i) The Report raises the question of the application of the new Scheme to cases occurring before the commencement of the Scheme. It is clear that in any event, as recognised in the Report, there can be no re-opening of cases where the liability for weekly payments has been redeemed by payment of a lump sum. Nor would it seem practicable to adjust the provisions of the new Scheme to fatal cases where a lump sum has been paid into Court and wholly or partially disbursed for the benefit of the widow and other dependants, and where the widow will, subject to re-marriage, be continuing to draw a pension under the Widows, Orphans and Old Age Contributory Pensions Act.

(ii) As regards cases of prolonged disability where the workman is still receiving weekly payments, the Report, whilst admitting the practical difficulties, suggested two alternatives for consideration:

(a) that the existing payment should continue to be provided as at present, the Social Insurance Fund paying separately the additions involved in the new scales; or

(b) that the Social Insurance Fund should take over the whole responsibility and make weekly payments to the workman at the new rates.

(iii) Both these alternatives would involve serious practical difficulties. There is a fundamental difference between the methods of fixing the weekly payments under the existing Acts and under the new Scheme. It would be necessary to make a medical assessment in each case in accordance with the new principle, but the Government are advised that it would be a matter of extreme difficulty after a lapse, in a large number of cases, of many years for a Medical Board to determine the degree of disablement due to the injury either at the time of the injury or at the date of their examination. Further, as regards (b) it would be necessary, as the Report points out, for the Central Fund to take over in respect of each case such reserves of insurance companies, mutual indemnity associations and individual employers as have been earmarked for the purpose of the liability. While in the case of Insurance Companies and some Mutual Indemnity Associations adequate reserves are no doubt set aside to cover the liability under the existing Acts, there will be cases where the provision made will be inadequate, and the Authority responsible for the new Scheme would have to ascertain the capitalised liability of the employer and be given power to recover any deficiency from the employer or his insurers.

(iv) Since the Report was published the compensation payments under the Acts have been substantially increased by recent legislation and the new rates provided by the Workmen's Compensation (Temporary Increases) Act, 1943, have diminished the importance of the transfer of past cases to the Fund. The Government have come to the conclusion that the right course is to leave the liability in past cases on the employer, in accordance with the existing Acts. These Acts, including the Workmen's Compensation (Temporary Increases) Act, 1943, would be continued in force for the purpose, subject to any appropriate adjustment in respect of family allowances provided under the national scheme.

(v) The Government propose, however, to provide that a workman who, if he came under the new Scheme, would be deemed to be virtually unemployed as a result of the injury, may apply to the Ministry of Social Insurance for a personal allowance of 10s. weekly which will be payable irrespective of the date of the injury. The cost of such allowances would be borne, not by the employer, but by the Industrial Injury Insurance Fund.

### Alternative Remedies

52. (i) The Report recommends (a) in the Chapter headed "The Problem of Alternative Remedies" (paras. 258-264) the setting up of a Committee to consider the relation, both in industrial and non-industrial cases, between claims to security benefit and claims for damages in respect of personal injury caused by negligence, and (b) in paragraph 98 (see also paragraph 81) a review of the law governing the liability of employers and third parties to pay damages or compensation to workmen, or their legal representatives and dependants, independently of the provision for them proposed to be made in the new Scheme.

(ii) The Government agree that an inquiry under both heads (a) and (b) is desirable and have set up for this purpose a Committee with comprehensive terms of reference under the Chairmanship of Sir Walter Monckton, K.C.V.O., K.C.



## V—SUMMARY OF MAIN FEATURES OF THE GOVERNMENT SCHEME

53. (i) Workmen's compensation will be treated in future not as part of the law of employer's liability but as a social service. As, however, the new Scheme departs from the general scheme of social insurance as regards rates of benefit and is, in many respects, assimilated to the war pensions schemes, it will not be unified with the general scheme but will be a separate scheme. (Paragraphs 24 and 32.)

(ii) The Scheme will be comprehensive in scope, i.e. it will cover, broadly speaking, all persons working under a contract of service or apprenticeship, except those under school leaving age. It will not provide for "contracting out" schemes. It will apply to accidents arising out of and in the course of employment, and to specified industrial diseases. (Paragraph 33.)

(iii) The liability, instead of being on the individual employer, will be placed upon a Central Fund out of which all benefits, both in disablement and fatal cases, and administrative charges, will be paid. (Paragraph 34.)

(iv) The Fund will be maintained by weekly contributions from employers and workmen collected by stamp, with a contribution from the Exchequer. The weekly rates of contribution will be 6d. for adult men and 4d. for women, to be shared equally between the employer and workman. The rates for juveniles will be half these rates (Paragraph 47). Benefits will not depend on a contribution qualification. (Paragraph 34.)

(v) The Scheme will be under the general charge of the Minister of Social Insurance, but provision will be made for the collaboration of industry in the development and administration of the Scheme in two ways. First, an Advisory Committee or Council will be set up on which employers and workmen will be equally represented, to advise the Minister on important matters of policy and administration referred to them. Secondly, employers and workmen will be equally represented on the local Appeal Tribunals. (Paragraphs 35 and 36.)

(vi) The present procedure by which the workman claims against his employer, subject to appeals to Courts of Law, will be superseded by a system under which claims will be dealt with by a Pensions Officer subject to rights of appeal to local tribunals, and further rights of appeal to an Industrial Injury Insurance Commissioner whose decision will be final. (Paragraph 36.)

(vii) In disablement cases, benefits will be at uniform flat rates. They will consist of an industrial injury allowance payable for an initial period while the workman is incapacitated for work, to be replaced, in cases where the disablement is likely to be permanent or prolonged, by an industrial pension, which will be supplemented by a special allowance if the pensioner is unemployable. Allowances will be given for family responsibilities. Treatment allowances and allowances for constant attendance will be provided in certain circumstances. (Paragraphs 37 to 45.)

(viii) The industrial pension will not be based on loss of earnings, but on the degree of disablement due to the injury. The degree of disablement will be assessed by a medical board, subject to certain rights of appeal to a special tribunal, on a comparison of the condition of the workman resulting from the injury with the condition of a normal healthy person of the same age and sex. The pension will be unaffected by subsequent earnings. No provision will be made for commutation of the pension by a lump sum payment. (Paragraphs 29, 36, and 39.)

(ix) Where the injury results in only a minor degree of disability, provision will be made for a final settlement by an award of a gratuity, or of a temporary allowance at a special rate with or without a final gratuity. (Paragraph 45.)

(x) In fatal cases, provision will be made for payment of a pension to the widow with an allowance for the first child. Where the first child is an orphan, a higher rate of allowance will be payable. In addition, provision will be made in certain circumstances for payment of a pension to one or both parents, or where no widow or parent's pension is payable, the payment of a pension to one adult dependent member of the deceased workman's family. Provision will be made for payment of temporary pension or benefit in certain other cases. (Paragraph 46.)

# APPENDIX

A. COMPARISON OF RATE OF INJURY ALLOWANCE AND OF 100% DISABILITY PENSION PROPOSED FOR ADULTS UNDER THE GOVERNMENT SCHEME, WITH THE RATES FOR TOTAL INCAPACITY UNDER THE EXISTING ACTS AND UNDER THE BEVERIDGE PLAN.

(1)	Government Proposals			Workmen's Compensation Acts		Beveridge Plan		
	Injury allow- ance during in- capacity for work (first 13 weeks) (2)	Injury allow- after 13 weeks and pension rate for 100% disablement (3)	Pension, if 100% disabled and unemploy- able (4)	Pre-war (5)	With war increases		Disability Benefit (first 13 weeks) (8)	Industrial Pension (after 13 weeks) (9)
					First 13 weeks (6)	After 13 weeks (7)		
(a) Single man or woman with- out dependant	s. d. 35 0	s. d. 40 0	s. d. 50 0	s. d. ½ earnings 30 0 max.	s. d. 35 0 max. (limit of ⅔rds earnings)	s. d. 40 0 max. (limit of ⅔rds earnings)	s. d. 24 0	⅔rds earnings 60s. max. (minimum as in Col. 8)
(b) Single man or woman with adult depen- dant	43 9	50 0	60 0				40 0	
(c) Married man .	43 9	50 0	60 0		40 0 max. (limit of ⅔rds earnings)	50 0 max. (limit of ⅔rds earnings)	40 0*	⅔rds earnings + 8s. 68s. max. (Minimum as in col. 8.)
(d) Married man and first child	48 9	57 6	67 6		45 0 max. (limit of ⅔rds earnings)	55 0 max. (limit of ⅔rds earnings)	48 0*	* Subject to wife not being gainfully oc- cupied.

The rates in Col. 3 and 4 may be increased by an allowance up to 20s. where constant attendance on the workman is necessary on account of the injury.

B. COMPARISON BETWEEN BENEFITS IN FATAL CASES UNDER THE GOVERNMENT SCHEME AND UNDER THE EXISTING ACTS AND THE BEVERAGE PLAN.

(1)	(2) <i>Government Proposals</i>	<i>Workmen's Compensation Acts</i>		<i>Beveridge Plan</i> (5)
		Pre-war rates (3)	With temporary increases (4)	
(a) One or more adult dependants (Widow, parent, etc.) or dependent child or children.	<p>Pension for widow, first child and/or one or both parents, or one other dependent member of the deceased workman's family (if no widow or parent).</p> <p>Widow: temporary benefit as under the general scheme, to be followed by pension—</p> <p>(i) if 50 years of age or over, or if under 50 years, with dependent children or incapable of self support .. 30s.</p> <p>(ii) others .. .. 20s.</p> <p>First child .. .. 7s. 6d.</p> <p>Orphan child .. .. 12s.</p> <p>One parent .. .. 20s. max.</p> <p>Two parents .. .. 30s. max.</p> <p>Other dependent member of family .. .. 20s. max.</p> <p>Temporary Benefits</p> <p>(i) Other female dependant having care of deceased workman's child if no pension as above is payable .. 20s. max.</p> <p>(ii) Dependent member of deceased workman's family not entitled to pension .. 36s. (for thirteen weeks)</p>	<p>Minimum £200</p> <p>Maximum £300</p>	<p>Minimum £300</p> <p>Maximum £400</p>	<p>Benefits as under Social Security Scheme, i.e. widow's temporary benefit (36s. for 13 weeks), followed by guardian benefit (24s. weekly) where there are children (first child 8s. weekly) or training benefit (24s. for 26 weeks). In addition, a lump sum in all cases (unspecified but taking into account other benefits).</p>
(b) One or more adult dependants with one or more dependent children.		<p>Maximum £600</p>	<p>Maximum £700</p>	

LONDON

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